THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.20102 OF 2001

DATED: 6-12-2006

Between:

The Guntur District Co-operative Central Bank Limited, Tenali, Administrative Office at Guntur, represented by the General Manager, 2/13, Brodipet, Guntur, Guntur District.

.. Petitioner

and

The Deputy Registrar of Co-operative Societies/ Divisional Co-operative Officer, Guntur, Guntur District and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

W.P.NO.20102 OF 2001

Order:

This writ petition is filed seeking a certiorari to call for the records relating to order dated 29-06-2001 in O.A.No.69/99 on the file of the Andhra Pradesh Co-operative Tribunal, Vijayawada and quash the same as arbitrary and illegal.

It appears, the 2nd respondent participated in an auction conducted by the 1st respondent for recovery of the amounts due to Guntur District Co-operative Marketing Society. He had deposited a total amount of Rs.78,750/- (Rupees Seventy Eight Thousands Seven Hundred and Fifty only) with the Sale Officer on 01-06-1983 and 15-06-1983 respectively. However, unfortunately the sale in favour of the 2nd respondent was set aside and the amount deposited by the 2nd respondent was directed to be returned. Aggrieved thereby, the 2nd respondent filed a Revision Petition No.1/88 before the Special Cadre Deputy Registrar of Co-operative Societies. The said Revision Petition was allowed confirming the sale in favour of the 2nd respondent. Thereafter, a writ petition vide W.P.No.1966/90 was filed by the objection petitioner questioning the confirmation of sale. The said writ petition was allowed on 20-08-1990. Aggrieved by the same, the 2nd respondent herein filed W.A.No.732/92 and the same was dismissed on 13-12-1996. Thereafter the 2nd respondent filed a review petition No.212/97 in writ appeal No.732/92 seeking a direction

for refund of the purchase money. A Division Bench of this court, while disposing of the said review petition on 04-04-1997, observed that the 2nd respondent is entitled to seek refund of the amount deposited including interest to be determined by the trial court which conducted the sale. In spite of the same, the 1st respondent did not allow interest. Therefore, the 2nd respondent had to file an appeal in O.A.No.69/98 before the A.P. Co-operative Tribunal, Vijayawada. However, the Tribunal, in the facts and circumstances of the case and also in view of the orders passed by this Court in the review petition as noticed above, directed the petitioner bank to pay interest at the rate of 10.25% from 01-06-1983/15-06-1983 till 21-10-1999. Aggrieved by the same, the bank has filed the present writ petition.

I am of the opinion that the 2nd respondent deposited the amount in pursuance of the auction conducted by the 1st respondent on 01-06-1983/15-06-1983 and for no fault of him, the auction was set aside which was the subject matter of writ petition and writ appeal before this Court. While disposing of the review petition filed in the above writ appeal, it was made clear that interest has to be determined by the trial court which conducted the sale. When such determination was not made, the 2nd respondent filed an appeal and the appellate authority has rightly considered that the 2nd respondent is entitled for interest at the rate of 10.25% on the amount of Rs.78,750/- from 01-06-1983/15-06-1983 till 21-10-1999. No ground is made out to interfere with the impugned proceedings under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

C.V. RAMULU, J

06-12-2006.

IBL